



## HOME CARE AGENCY/REGISTRY GUIDANCE FOR PARTIAL IMPLEMENTATION OF THE INTERSTATE NURSE LICENSURE COMPACT

**August 2023**

The Department of Health (Department) provides this guidance to address whether home care agencies/registries can employ or contract with registered nurses (RNs) and licensed practical nurses (LPNs) holding an active multistate license (MSL).

### **Background**

[Act 68 of 2021](#) authorizes the Commonwealth of Pennsylvania's entrance into the interstate Nurse Licensure Compact (Compact). Participation in the Compact allows a state to issue its resident nurses an MSL, which permits the licensee to practice in any other Compact state. In accordance with the [Pennsylvania Department of State](#), the Commonwealth is partially implementing the Compact by permitting RNs and LPNs residing in other Compact states and holding an active MSL (eligible MSL nurses) to practice in Pennsylvania.

To facilitate the partial implementation of the Compact, the Department has identified the statutory requirements that may be a barrier and developed this guidance to address whether those requirements would prevent home care agencies/registries seeking to utilize eligible MSL nurses.

**The following requirements have been identified as potential barriers to home care agencies/registries:**

#### **35 P.S. § 448.806(d.1).**

This statutory provision requires that direct care workers, prior to having direct consumer contact, meet one of several qualifications including having a valid nurse's license in the Commonwealth. An MSL would not meet the requirements of the statutory provision. Therefore, a home care agency/registry may not utilize MSL nurses as direct care workers if their qualification is based on having a valid nurse's license.

All other qualifications provided for by this statutory provision are unaffected by the Compact.

#### **28 Pa. Code § 611.5**

This regulation provides the definition of: "*Nurse*—A registered nurse or a licensed practical nurse."



## **28 Pa. Code § 611.55(a)**

This regulation mirrors 35 P.S. § 448.806(d.1), requiring that prior to a direct care worker providing services to a consumer, the home care agency/registry must ensure the direct care worker meets one of several qualifications including having a valid nurse's license in this Commonwealth.

An MSL would not meet the requirements of the regulatory requirement. Therefore, a home care agency/registry may not utilize MSL nurses as direct care workers if their qualification is based on having a valid nurse's license.

All other qualifications provided for by this regulatory provision are unaffected by the Compact.

### **MSL Compact Structured Exception Request Is Not Available for Home Care Agencies/Registries**

MSL Compact structured exception requests are only available pursuant to the Department's authority under 28 Pa. Code § 51.31, that authorizes the Department to grant exceptions to state regulations. The Department does not have the authority to grant an exception to a statutory provision.

While certain home care agency/registry regulations potentially qualified for an exception request, the above-referenced statutory provisions would render those exceptions meaningless since the home care agency/registry would still have to comply with the statute. Therefore, home care agencies/registries may not seek an exception to utilize MSL nurses.

Alternatively, MSL nurses may provide services as a direct care worker for a home care agency/registry if they meet one of the other qualifications provided for by both statute and regulation, such as successful completion of a nurse aide training program approved by the department.

### **Other Information**

Facilities who want to verify the status of a nurse's MSL can go to [www.nursys.com](http://www.nursys.com), the National Council of State Boards of Nursing's (NCSBN) central repository for licensing information, and click on "Quick Confirm."

Home care agencies/registries are required to maintain full or substantial compliance with all applicable regulations. The purpose of this document is to provide guidance to home care agencies/registries on utilizing eligible MSL nurses and is not an exhaustive list of regulatory requirements. Nothing in this guidance should be construed as affecting or interpreting any Federal or State law or regulation outside of the Department's jurisdiction that may limit the ability of home care agencies/registries to utilize eligible MSL nurses.



**Please contact the Division of Home Health if you have questions that are not addressed by the guidance. The Division of Home Health can be reached by email at [ra-dhhomehealth@pa.gov](mailto:ra-dhhomehealth@pa.gov).**